

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

: 18 Cr. 76 (PAC)

- against - :

: **OPINION & ORDER**

Mehmet Dikengil, :

Defendant. :

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HONORABLE PAUL A. CROTTY, United States District Judge:

Mehmet Dikengil is a 72-year-old inmate at FCI Fort Dix. (Dkt. 178, at 3). He suffers from congestive heart failure, diabetes and hypertension, and has undergone coronary bypass surgery. (*Id.*). He has served the majority of his 24-month sentence and is due for release in six months, December 9, 2020. (*Id.* at 1). Dikengil moves for compassionate release citing the threat posed to him by COVID-19 in a prison due to his age and underlying conditions.

The motion is denied as moot and without prejudice to its renewal in light of the Government’s submission of May 21, 2020, which opposes Dikengil’s motion on three grounds.¹ The dispositive argument here is that the BOP has determined that it will transfer Dikengil to home confinement on June 11, 2020. (Dkt. 180, at 1). The Government submits an email from the BOP to that effect. The BOP further represents that Dikengil is now being held in quarantine in anticipation of his transfer to home confinement. (*Id.* at 1, Ex. A).

¹ The Government also argues Dikengil’s motion should be denied because he did not wait until 30 days had lapsed from his filing of a request for release with the warden of his Bureau of Prisons (“BOP”) facility, *see* 18 U.S.C. § 3582(c)(1)(A), and because in its view the motion fails on the merits. (Dkt. 180, at 4–8, 10). The Court rules on neither of those arguments here.

Apart from the contention that Dikengil filed his motion before the 30-day period described in 18 U.S.C. § 3582(c)(1)(A) had lapsed, he appears to otherwise be a candidate for compassionate release. Indeed, the BOP previously attempted to place Dikengil in home confinement on May 13, but missed a step, which delayed Dikengil's release. (Dkt. 178, Ex. B, at 1; Dkt. 180, at 8–9). This Court has expressed the view that compassionate release matters lie largely in the hands of the BOP. *See United States v. Brady*, S2 18 Cr. 316 (PAC), 2020 WL 2512100, at *4 (S.D.N.Y. May 15, 2020).

CONCLUSION

The motion is denied as moot without prejudice to its renewal if Dikengil finds himself anywhere other than in home confinement after June 11. The Clerk of Court is directed to close the motions at Dockets 178 and 180.

Dated: New York, New York
May 28, 2020

SO ORDERED



PAUL A. CROTTY
United States District Judge